

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK**

In re Application of :  
PHILIPPE MARTINEZ, :  
MSR MEDIA SKN LTD., : Case No.  
Applicants, for an Order Pursuant to :  
28 U.S.C. § 1782 to Conduct Discovery :  
for Use in Foreign Proceedings. :  
:

**APPLICATION FOR AN ORDER PURSUANT TO 28 U.S.C. § 1782  
TO CONDUCT DISCOVERY FOR USE IN FOREIGN PROCEEDINGS**

1. Philippe Martinez and MSR Media SKN Limited (“Applicants”) hereby file their Application for an Order Pursuant to 28 U.S.C. § 1782 to Conduct Discovery for Use in a Foreign Proceeding (“Application”) and respectfully ask this Court to grant the Proposed Order attached as Exhibit A to this Application, which gives Petitioners leave, pursuant to 28 U.S.C. § 1782 and Rules 26 and 45 of the Federal Rules of Civil Procedure, to serve Standard Chartered Bank, New York Branch (“Standard Chartered Bank”) and Bank of New York Mellon with the subpoenas attached as Exhibit B to this Application, and in support thereof state as follows.

2. The requested relief is for the purposes of obtaining necessary discovery in aid of two ongoing foreign defamation proceedings (“Foreign Defamation Proceedings”) filed against Applicants in the High Court of Justice in the Federation of Saint Christopher and Nevis (“St. Kitts and Nevis”).

3. Applicants seek the assistance of this Court to obtain discovery from Standard Chartered Bank and Bank of New York Mellon (collectively, the “Respondent Banks”).

4. Applicants are defendants in pending Foreign Defamation Proceedings, filed by (a) Ying Jin and Caribbean Galaxy Real Estate Corporation (“Caribbean Galaxy”) and (b) Timothy Harris (collectively, “Foreign Plaintiffs”). Ying Jin and Caribbean Galaxy filed defamation claims against both Applicants, and Harris filed defamation claims against Applicant MSR Media SKN Ltd. Foreign Plaintiffs allege that Applicant(s) defamed them by making statements about Foreign Plaintiffs’ alleged involvement in a corrupt scheme related to the sale of citizenship by investment (“CBI”) units in St. Kitts and Nevis.

5. Applicants’ tailored requests are set forth in the subpoenas attached as Exhibit B. These tailored requests relate to transactions made in U.S. dollars to, from, and through accounts held by the Respondent Banks. Upon information and belief, Applicants assert that a group of individuals and entities participated in a corrupt scheme related to the sale of CBI units in St. Kitts and Nevis, and that transactions furthering the corrupt scheme have passed through the Respondent Banks. Evidence of these transactions is directly relevant to defend against the Foreign Defamation Proceedings.

6. As set forth in the accompanying declaration of Damian Kelsick, Applicants’ counsel in St. Kitts and Nevis, attached as Exhibit C, the High Court of Justice in St. Kitts and Nevis will be receptive to the evidence sought here and assistance from this Court. Mr. Kelsick’s declaration is informed, in part, by his prior service as a judge in two trial courts in the Eastern Caribbean judicial system, of which the High Court of Justice in St. Kitts and Nevis is a constituent court.

7. Section 1782 permits litigants in foreign proceedings to obtain discovery in the United States to assist in the foreign litigation. In particular, § 1782 states:

The district court of the district in which a person resides or is found may order him to give his testimony or statement or to produce a document or other thing for use

in a proceeding in a foreign or international tribunal, including criminal investigations conducted before formal accusation. The order may be made . . . upon the application of any interested person and may direct that the testimony or statement be given, or the document or other thing be produced, before a person appointed by the court.

8. The three statutory requirements of § 1782 are satisfied here. As explained in the accompanying Memorandum of Law: (1) Respondent Banks are “found” in this District; (2) the discovery sought is “for use” in the Foreign Defamation Proceedings; and (3) Applicants are “interested person[s]” because they are parties to the Foreign Defamation Proceedings.

9. This application also meets the discretionary factors of § 1782, as explained further in the accompanying Memorandum of Law: (1) none of the Respondent Banks is a party to either of the Foreign Defamation Proceedings; (2) the High Court of Justice in St. Kitts and Nevis likely will be receptive to judicial assistance from a U.S. court; (3) Applicants are not attempting to circumvent foreign proof-gathering restrictions; and (4) the discovery sought is not intrusive or burdensome. *See Intel Corp. v. Advanced Micro Devices, Inc.*, 542 U.S. 241, 264–65 (2004).

10. Applicants therefore respectfully request that this Court expeditiously grant the Application for an Order granting Applicants leave to serve the Respondent Banks with the subpoenas attached as Exhibit B.

WHEREFORE, Applicants respectfully request that this Court:

- a. Grant the Application for an Order Pursuant to 28 U.S.C. § 1782 to Conduct Discovery for Use in a Foreign Proceeding;
- b. Enter the Proposed Order attached to this Application as Exhibit A;
- c. Grant Applicants leave, pursuant to 28 U.S.C. § 1782, to serve the subpoenas attached to this Application as Exhibit B;

- d. Direct the Respondent Banks to comply with the subpoena issued in this case in accordance with the Federal Rules of Civil Procedure and the Rules of this Court; and
- e. Grant any and all other further relief to Applicants as deemed just and proper.

Respectfully submitted,

**MILLER & CHEVALIER CHARTERED**

/s/ Calvin Lee

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